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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 10/603,886  | 06/25/2003  | Coston L. Christensen | 1095.2.1            | 2999             |
| 33388   | 7590        | 07/18/2005            | EXAMINER            |                  |
| STEVEN MCDANIEL, MSEE<br>REG. PATENT AGENT<br>846 S. 1350 E.<br>PROVO, UT 84606 |             |                       | NOLAND, KENNETH W   |                  |
|   |             |                       | ART UNIT            | PAPER NUMBER     |
|   |             |                       | 3653                |                  |

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                   |                        |
|------------------------------|-------------------|------------------------|
| <b>Office Action Summary</b> | Application No.   | Applicant(s)           |
|                              | 10/603,886        | CHRISTENSEN, COSTON L. |
|                              | Examiner          | Art Unit               |
|                              | Kenneth W. Noland | 3653                   |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 19-23 is/are allowed.
- 6) Claim(s) 1,5-13, 15, 17 and 18 is/are rejected.
- 7) Claim(s) 2-4, 14 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3653

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 1,6-8 are rejected under 35 U.S.C. 102(\*b\*\*) as being \*anticipated\*\* by \*Schwimmer. Schwimmer discloses the storage unit to dispenser containers having a receiving area 32 and the user-accessible dispensing area 52 and a receptor track 36 and a provider track 40. Note the redirector track 30 and the stop member 50, which holds the containers at the user accessible area dispensing area when at the 'engaged' position as shown in figure 3. The stop member is positioned proximate the user - accessible dispensing area.

3. \*\*Claims 5,9,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Schwimmer. . To provide that Schwimmer's apparatus would hold other articles as boxes,crates,etc. would be obvious as a mere choice of utility to so dispense any other desired article. In regard to claims 9,11 , the use of the track consisting of a shelf, belt etc. or the stop consisting of a slat, panel,etc. , would be obvious as a mere choice of material design to so choose any desired structure. In regard to claim 12, to detach or remove Spring's stop would be obvious as a mere choice of structural detachment or removability , as for replacement purposes or maintenance, and, therefore, the above features are not afforded any patentable weight.\*\*

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over \*Schwimmer in view of Bookout. . To modify Schwimmer's unit for tracks having at least

one 'fillet' would be obvious in view of the teachings of Bookout's use of the separating 'fillet' shown between the tracks in figure 2 to easily form multiple tracks.

5. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Schwimmer in view of Stefan. To provide that Spring's storage unit would be increased in capacity would be obvious in view of the teachings of Stefan's use of the storage rack that desires to also increase it's\* storage capacity (see col 1, lines 29-32) to accommodate other articles.\*

6. Claims 1,13,15 are rejected under 35 USC 102(b) as being anticipated by Spamer et al. Spamer et al discloses in figure 9 the storage unit to dispense containers having a receiving area and the user- accessible dispensing area 110 and a track there between... Note the pivoted stop member 94 to hold the containers at the user accessible dispensing area and positioned in proximity to the dispensing area. Note also the use of the spring 95. .

7. Claims 5,9,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Spamer et al . To provide that Spamer et al's apparatus would hold other articles as boxes,crates,etc. would be obvious as a mere choice of utility to so dispense any desired article. In regard to claims 9,11 , the use of the track consisting of a shelf, belt etc. or the stop consisting of a slat, panel,etc. , would be obvious as a mere choice of material design to so choose any desired structure. In regard to claim 12, to detach or remove Spring's stop would be obvious as a mere choice of structural detachment or removability , as for replacement purposes or maintenance, and, therefore, the above features are not afforded any patentable weight.\*\*

8. Claims 2-4, 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 19-23 are allowed.

10. Applicant's remarks have been fully considered, however, the use of a user accessible dispensing area and a stop member to hold containers proximate to the user accessible dispensing area, is adequately taught by the references to either Schwimmer or Spamer et al. As such, the remarks relative to the rejected claims above are not deemed persuasive.

11. Garman is cited disclosing in figure 1 the use of shelf members for the track members.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

\*\*\*

*ken W. Noland 7/14/2005*

KENNETH W. NOLAND  
PRIMARY EXAMINER